

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICARDO MURILLO,

Defendant.

No. CR-S-98-347-JLQ

ORDER ON MOTION FOR
DISCOVERY IN 28 U.S.C. § 2255
PROCEEDING

Before the court is the Government's Motion For Discovery In A 28 U.S.C. § 2255 Proceeding and an Application For Order Requiring Affidavits From Defense Counsel And Investigators. The Defendant has not responded or objected to the Motion and Application.

Inter alia, the Government seeks access to the boxes of files delivered by the Defendant's trial counsel to present counsel for the Defendant. There being no objection thereto and the court having previously ruled that because of the ineffective assistance of counsel claim herein, the attorney-client privilege existing between the Defendant and trial counsel has been waived, the motion for access to the files and boxes of trial defense counsel is GRANTED.

In its "Application" the Government seeks an unspecified "Affidavit" from the Defendant's trial counsel and investigators. That request lacks specificity as to what such an Affidavit might contain. By reason thereof, the Application is DENIED IN PART and GRANTED in part to the extent that in lieu of an Affidavit, counsel for the

1 Government shall be entitled to interview and/or depose trial counsel for the Defendant
2 as to the claims presented by the Defendant in this § 2255 proceeding.

3 The Clerk of this court shall enter this Order and forward copies to counsel.

4 **DATED** this 15th day of December 2005.

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6 s/ Justin L. Quackenbush
7 JUSTIN L. QUACKENBUSH
8 SENIOR UNITED STATES DISTRICT JUDGE
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